

A. G. Contract No. KR93 3012TRN
ECS File: JPA 93-192
TRACS No.: H 3682 01C
Section: Broadway Rd. Abandonment
48th - Priest Road
Tempe File: C94-97

INTERGOVERNMENTAL AGREEMENT
BETWEEN
THE STATE OF ARIZONA
AND
THE CITY OF TEMPE

THIS AGREEMENT is entered into 13 April, 1995,
pursuant to Arizona Revised Statutes, Sections 11-951 through
11-954, as amended, between the STATE OF ARIZONA, acting by and
through its DEPARTMENT OF TRANSPORTATION (the "State") and the
CITY OF TEMPE, acting by and through its MAYOR and CITY COUNCIL
(the "City").

I. RECITALS

1. The State is empowered by Arizona Revised Statutes
Section 28-108 to enter into this agreement and has by
resolution, a copy of which is attached hereto and made a part
hereof, resolved to enter into this agreement and has delegated
to the undersigned the authority to execute this agreement on
behalf of the State.

2. The City is empowered by Arizona Revised Statutes
Section 48-572 to enter into this agreement and has by
resolution, a copy of which is attached hereto and made a part
hereof, resolved to enter into this agreement and has
authorized the undersigned to execute this agreement on behalf
of the City.

3. The State and the City desire to design and construct
roadway overlay improvements to Broadway Road from 48th Street
to Priest Road in the City, (which was acquired by the State to
construct the I-10 Broadway Road traffic interchange) and
abandon jurisdiction and maintenance responsibility from the
State to the City, hereinafter referred to as the Project.

THEREFORE, in consideration of the mutual agreements expressed
herein, it is agreed as follows:

NO. <u>19646</u>
FILED WITH SECRETARY OF STATE
Date Filed <u>04/13/95</u>
<u>Gene H. Hull</u> Secretary of State
By <u>Vicky Greenwood</u>

II. SCOPE OF WORK

1. The State will:

a. Provide design plans, specifications and such other documents and services required for construction bidding and construction. Incorporate City review comments.

b. Call for bids and award one or more construction contracts. Administer same and make all payments to the contractor(s). Be responsible for all costs, including any contractor claims for extra compensation attributable to the State. Cooperate with the City in the joint monitoring of construction.

c. Upon completion and with the concurrence of the City, approve and accept the Project as complete.

d. Upon approval and by resolution of the Transportation Board, transfer jurisdiction and maintenance responsibility for Broadway Road between 48th Street and Priest Road from the State to the City, except for the I-10 access control areas (100 feet from I-10 on/off ramps, and from approximately station 11+95.69 to station 35+52.96, which is the area from the easterly boundary of the Motor Vehicle Division offices to the western driveway point to the Tempe Butte, as is shown on Exhibit A, which is attached hereto and made a part hereof.

2. The City will:

a. Review the design documents and provide comments as appropriate. Assist the State in post-award construction engineering at no cost to the State.

b. Waive the requirements of Arizona Revised Statute 28-106.

c. Upon approval and by resolution of the State Transportation Board, accept jurisdiction and maintenance responsibility for Broadway Road in the City, except as noted in section II.1.d herein.

III. MISCELLANEOUS PROVISIONS

1. This agreement shall remain in force and effect until completion of said Project and abandonment; provided, however, that this agreement, except any provisions herein for maintenance, which shall be perpetual, may be cancelled at any time prior to the award of a construction contract, upon thirty (30) days written notice to the other party.

2. This agreement shall become effective upon filing with the Secretary of State.

3. This agreement may be cancelled in accordance with Arizona Revised Statutes Section 38-511.

4. The provisions of Arizona Revised Statutes Section 35-214 are applicable to this contract.

5. In the event of any controversy which may arise out of this agreement, the parties hereto agree to abide by required arbitration as is set forth in Arizona Revised Statutes Section 12-1518.

6. All notices or demands upon any party to this agreement shall be in writing and shall be delivered in person or sent by mail addressed as follows:

Department of Transportation	City of Tempe
Joint Project Administration	City Manager
205 South 17 Avenue, Suite 616E	31 East 5th Street
Phoenix, AZ 85007	Tempe, AZ 85281

7. Attached hereto and incorporated herein is the written determination of each party's legal counsel that the parties are authorized under the laws of this state to enter into this agreement and that the agreement is in proper form.

IN WITNESS WHEREOF, the parties have executed this agreement the day and year first above written.

CITY OF TEMPE

STATE OF ARIZONA

Department of Transportation

By Neil H. Giuliano
Neil Giuliano
Mayor

By August V. Hardt
AUGUST V. HARDT
Deputy State Engineer

ATTEST

By Helen Fowler
HELEN FOWLER
City Clerk

JPA 93-192

APPROVAL OF THE TEMPE CITY ATTORNEY

I have reviewed the above referenced proposed intergovernmental agreement, between the DEPARTMENT OF TRANSPORTATION, HIGHWAYS DIVISION and the CITY OF TEMPE and declare this agreement to be in proper form and within the powers and authority granted to the City under the laws of the State of Arizona.

DATED this 3rd day of January, 1998⁵.


A handwritten signature in cursive script, reading "David R. Merkel", written over a horizontal line.

City Attorney

RESOLUTION

BE IT RESOLVED on this 6th day of December 1993, that I, the undersigned LARRY S. BONINE, as Director of the Arizona Department of Transportation, have determined that it is in the best interests of the State of Arizona that the Department of Transportation, acting by and through the Highways Division, to enter into an agreement with the City of Tempe for the purpose of defining responsibilities for the construction of overlay improvements and abandonment to the City of Broadway Road from 48th Street to Priest Road.

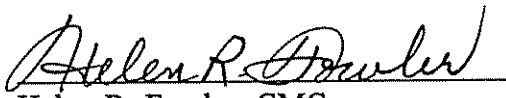
Therefore, authorization is hereby granted to draft said agreement which, upon completion, shall be submitted to the Chief Deputy State Engineer for approval and execution.


for LARRY S. BONINE
Director

CERTIFICATION

I, Helen R. Fowler, City Clerk for the City of Tempe, Maricopa County, Arizona, do hereby certify the attached to be a true and exact copy of Resolution No. 94.30 passed and adopted at the Regular City Council Meeting of May 19, 1994, of the City of Tempe, Arizona.

Dated this 29th day of December, 1994.


Helen R. Fowler, CMC
City Clerk

RESOLUTION NO. 94.30

A RESOLUTION BY THE CITY COUNCIL OF THE CITY OF TEMPE,
ARIZONA, AUTHORIZING THE EXECUTION OF AN AGREEMENT WITH
THE STATE OF ARIZONA, DEPARTMENT OF TRANSPORTATION
* * * * *

WHEREAS, it is to the mutual BENEFIT of the State of Arizona, Department of Transportation and the City of Tempe to enter into an agreement for design and construction of roadway improvements along Broadway Road from 48th Street to Priest Drive and to abandon jurisdiction and maintenance responsibilities from the state to the city, and

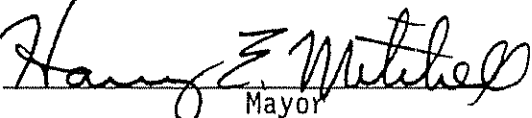
WHEREAS, the Arizona Department of Transportation has prepared an agreement setting forth the responsibilities for design, construction and abandonment of this section of Broadway Road.

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF TEMPE, ARIZONA, as follows:

That the Mayor of the City of Tempe is hereby authorized to execute an agreement with the State of Arizona, Department of Transportation setting forth the provisions and responsibilities for the design and construction of roadway improvements on Broadway Road from 48th Street to Priest Drive and for the abandonment of jurisdiction.

Resolution No. 94.30
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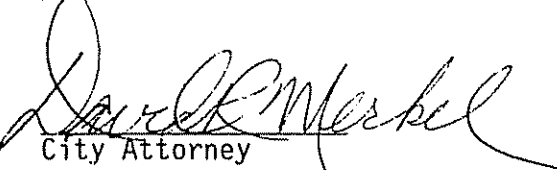
PASSED AND ADOPTED BY THE CITY COUNCIL OF THE CITY OF TEMPE, ARIZONA
this 19th day of May, 1994.


Mayor

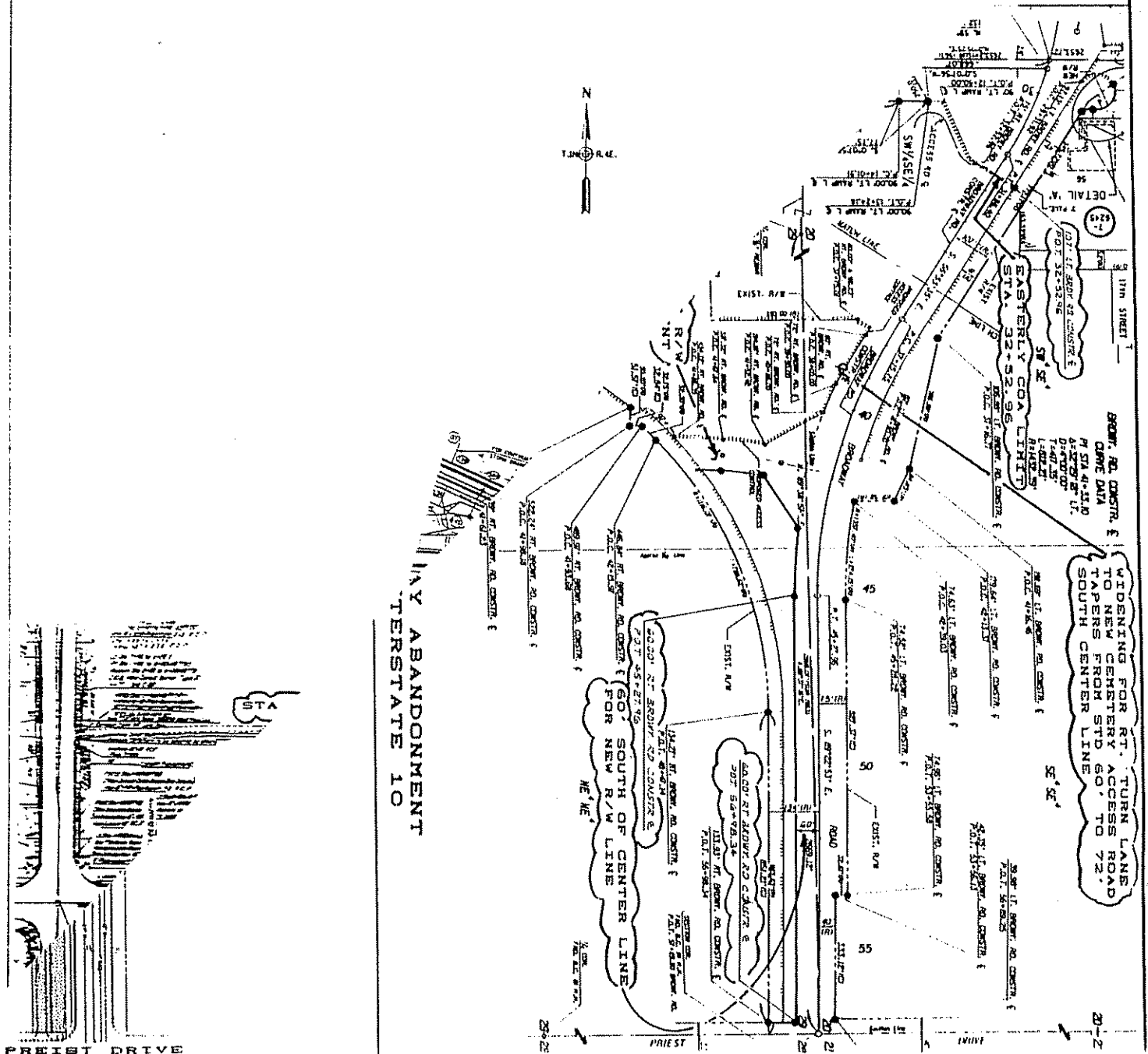
ATTEST:


City Clerk

APPROVED AS TO FORM:


City Attorney

RAY ABANDONMENT
-TERSTATE IO





STATE OF ARIZONA

OFFICE OF THE ATTORNEY GENERAL

1275 WEST WASHINGTON, PHOENIX 85007-2926

GRANT WOODS
ATTORNEY GENERAL

MAIN PHONE : 542-5025
TELECOPIER : 542-4085

INTERGOVERNMENTAL AGREEMENT
DETERMINATION

A. G. Contract No. KR93-3012-TRN, an agreement between public agencies, has been reviewed pursuant to A.R.S. §11-952, as amended, by the undersigned Assistant Attorney General who has determined that it is in the proper form and is within the powers and authority granted to the State of Arizona.

No opinion is expressed as to the authority of the remaining parties, other than the State or its agencies, to enter into said agreement.

DATED this 31st day of March, 1995.

GRANT WOODS
Attorney General

JAMES R. REDPATH
Assistant Attorney General
Transportation Section

JRR:lsr
8737G/94